SB 549 – Legislative Oversight to Protect Ratepayers

IN BRIEF

SB 549 prohibits the California Public Utilities Commission (CPUC) from approving changes in rates of Pacific Gas and Electric Company (PG&E) without Legislative authorization.

BACKGROUND

The California Constitution grants the CPUC the power to establish rates for public utilities,[1] while the Public Utilities Code requires the CPUC to ensure those rates are just and reasonable.[2]

These provisions provide the CPUC with broad authority to establish utility rates, which include not only costs to provide electric and gas service and to build and maintain infrastructure, but also the amount of profit a utility can make in order to attract investors. These multiple considerations to a utility's rate are resolved in the Cost of Capital (CoC) and General Rate Case (GRC) proceedings at the CPUC.

Over the last decade, PG&E's average rates have increased even when accounting for inflation.[3] Concurrently, PG&E's authorized return on equity (ROE; i.e. the ratepayer funds going to shareholder profit) has been higher than the national average.[4] This has significantly increased the burden on utility customers.

THE PROBLEM

This constant pressure on ratepayers' pockets is only exaggerated during financial difficulties. After the electricity crisis and PG&E's 2001 bankruptcy, the CPUC took measures to improve the credit rating of PG&E. The CPUC authorized a ROE of no less than 11.22% until PG&E's credit rating improved.[5] The CPUC additionally approved almost $8 billion in new financing as a result of the bankruptcy settlement, in addition to the $4 billion the CPUC had approved as a rate increase prior to the bankruptcy filing.[6] These costs were borne by the ratepayers. The total cost was meant to be paid off by 2012; yet no reduction in rates has been observed. Moreover, even after PG&E's credit rating improved in 2007, the CPUC did not adjust the ROE for another five years providing for high profits to the utility's shareholders.

These rate changes occurred throughout a catastrophic period of unsafe electricity and gas service for PG&E. From the natural gas pipeline explosion in San Bruno in 2010, to the Carmel pipeline dig-in in 2014, to the Butte Fire in 2015, and the North Bay fires in 2017, PG&E has struggled to ensure its infrastructure is safe. With PG&E now facing large outstanding liabilities, it is critical to strike a balance between providing safe service without overly burdening ratepayers.

THE SOLUTION

The Legislature wants to ensure PG&E ratepayers are protected – both financially and with safe service – even during a bankruptcy. Chapter 11 §1129 of the Federal Bankruptcy Code ensures the CPUC will have approval of any rate change in a reorganization plan.[7]

Currently, the Legislature has few explicit constraints on the CPUC's ratemaking authority. This bill provides an avenue for the Legislature to intercede on rate changes, by mandating the CPUC receive Legislative authorization prior to approving any increase in rates or capital structure changes of PG&E. These rate changes can manifest during the approval of a bankruptcy reorganization, an updated CoC proceeding, or in PG&E's next GRC which was filed in December 2018.[8]

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1 Article XII, Sec. 6

2 PU Code §451 et seq.

3 Figure 1.1; pg. 6; *California Electric and Gas Utility Cost Report;* http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Divisions/Office_of_Governmental_Affairs/Legislation/2018/California%20Electric%20And%20Gas%20Utility%20Cost%20Report.pdf

4 Figure 1; pg. 9*; An Introduction to Utility Cost of Capital*; April 2017; http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work/PPD_Work_Products_(2014_forward)/PPD-An-Introduction-to-Utility-Cost-of-Capital.pdf

5 To either an A- from S&P or an A3 from Moody's; see pg. 8; *Ibid.*

6 http://articles.latimes.com/2003/dec/19/business/fi-pge19

7 (a)(6) *Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.*

8 https://www.pge.com/pge_global/common/pdfs/about-pge/company-information/regulation/2020-General-Rate-Case-Fact-Sheet-121218.pdf

SUPPORT

FOR MORE INFORMATION

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